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Joint Legislative Audit and Review Committee (JLARC)

LEGISLATIVE AUDITOR Ruta Fanning

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SENATORS

Brad Benson
Jeanne Kohl-Welles
Bob Oke
Linda Evans Parlette, *Vice Chair*
Debbie Regala
Phil Rockefeller, *Asst. Secretary*
Pat Thibaudeau
Joseph Zarelli

REPRESENTATIVES

Gary Alexander, *Secretary*
Glenn Anderson
Kathy Haigh
Janéa Holmquist
Ross Hunter, *Chair*
Fred Jarrett
Kelli Linville
Deb Wallace

September 14, 2005

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

COMMITTEE BUSINESS

- Representative Ross Hunter, JLARC Chair, called the meeting to order at 1:15 p.m. in House Hearing Room B of the John L. O'Brien Building in Olympia, Washington.
- Senator Parlette moved to approve the minutes from the June 22, 2005, JLARC meeting. Motion was seconded and carried unanimously.
- Representative Alexander moved to confirm Ruta Fanning as the new Legislative Auditor. Senator Parlette seconded the motion. Motion carried unanimously.
- Representative Hunter announced that the date of JLARC's October meeting has been changed from October 19th to October 18th.

REPORTS, PRESENTATIONS, DISCUSSIONS

HVAC/R LICENSING AND TESTING REQUIREMENTS STUDY — PROPOSED FINAL REPORT

Keenan Konopaski with the JLARC staff presented the proposed final report. Mr. Konopaski reviewed the report's findings and recommendations, and Ronald Fuller from the Department of Labor and Industries (L&I) was available to respond to the Committee's questions.

Representative Linville asked about the composition of the electrical board, including what types of specialty electricians are represented on the board and whether there are some other areas that may be concerned about their representation. Ron Fuller, Chief Electrical Inspector from L&I, responded. Mr. Fuller indicated that specialties can apply to up to six specialty positions on the board, but today there is only one, the telecommunications contractor. Representative Linville asked whether JLARC's Recommendation 3 intended to put more of a particular specialty on the board. Mr. Konopaski indicated the recommendation is worded more broadly to include specialty electricians in general. Mr. Fuller indicated that HVAC specialties represent about 5 percent of all licenses and 20 percent of the specialty licensed electricians.

Representative Holmquist asked Mr. Fuller about L&I's plan to increase the standard with respect to Recommendation 1. Mr. Fuller indicated that L&I is just beginning the rulemaking process, and they are convening a technical advisory committee comprised of 45 people in the industry and all of the specialties are represented on the committee proportionate to the number they represent in overall licensed electricians. The advisory group will make

a recommendation regarding training hours. He indicated that L&I believes the required percentage of training work that is electrical only should differ among the specialties; however, that will be negotiated with the stakeholders. Representative Holmquist asked if L&I changes the standard, which is uniform across the state of Washington, will L&I change it for all of the electricians—the 01s as well as 06As? Representative Holmquist expressed her concern that some of these changes might put HVAC companies out of business by having them required to hire 01 journeymen. Mr. Fuller explained that is not the approach L&I would take; that the purpose for attaining training hours is to work under the supervision of the appropriate electrician, and that an 06A and/or 01 would be acceptable for HVAC trainees. The change will be made on the affidavit of experience provided every two years by the trainee, where they will need to indicate the percentage of electrical-only hours. Representative Holmquist asked whether this would apply to 01s as well. Mr. Fuller indicated that the percentages for electrical-only would not be high and would likely vary depending on the specialties. Mr. Fuller indicated that Eric Thomas, the JLARC analyst who conducted the initial study, took the test and passed, having had no electrical experience and therefore could have become an electrical administrator. L&I agrees that there is a good basis for the recommendation.

Representative Holmquist commented on the three options related to Recommendation 3, noting that the first option would require only one license per state and would not lead to multiple license requirements. She expressed her concern that the other two options appear to require multiple licenses, noted that HVAC has drafted a proposal for having their own board, and indicated her preference for option 1 under Recommendation 3.

Senator Benson asked Mr. Fuller to describe the relationship between the electrical board and L&I's rulemaking process, noting the board's current composition does not include specialty electricians. Mr. Fuller explained that the board is made up of 15 members, six of which represent electricians; others are citizen members (engineer, telecommunications, manufacturers, city regulators, etc.). Mr. Fuller indicated that those representing electricians and electrical contractors are in the minority, holding only six of the 14 voting positions on the board. The board's function in the rulemaking process is to "review and recommend" and that L&I initiates rule changes, with significant participation by stakeholders.

Representative Linville asked whether L&I's concurrence with the JLARC recommendations represents concurrence on the part of both labor and industry. Mr. Fuller confirmed that L&I's concurrence represents both labor and industry.

Representative Alexander commented that Recommendation 3 outlines three options and discussed that, although members might have preferences about options, JLARC approves *distribution of reports*, not necessarily voting on each recommendation. He noted that recommendations may or may not come forward in legislation. Representative Alexander asked about L&I's plan and timeline for acting on the options under Recommendation 3, whether L&I had a preference for a particular option, and whether changes related to Recommendation 3 would be made via rulemaking or through legislation. Mr. Fuller indicated that L&I believes that a statutory change would be required for implementation of Recommendation 3, and the Department plans to work this through a stakeholder process in December, reviewing all the options. Mr. Fuller indicated there would not be time for stakeholder involvement and development of proposed legislation for the 2006 Session, so L&I would likely propose legislation in 2007.

Chair Hunter summarized that the Committee wants to emphasize that broad direction provided in the JLARC recommendation is intended to provide an appropriate amount of flexibility to L&I and should not result in broad or extensive rulemaking.

Representative Linville made a motion to approve for distribution the proposed final report for the HVAC/R Licensing and Testing Requirements Study. The motion was seconded and carried, with seven members approving distribution and Representative Holmquist and Senator Benson opposing.

DNR GRAZING LANDS STUDY — PROPOSED FINAL REPORT

Linda Byers with the JLARC staff presented the proposed final report, and Bruce Mackey from the Department of Natural Resources (DNR) was available to respond to questions. Ms. Byers reminded Committee members that they had received a letter from Representative Hans Dunshee indicating his intent to pursue funding for an assessment of the physical condition of these state grazing lands.

Senator Benson noted that, with regard to the management account, the grazing program is pulling out more money than it is putting in. He also noted that, in looking at fees charged in Washington and other states, Washington is doing a better job, at least in terms of being closer to the fees charged on private lands. Senator Benson asked if the study reviewed whether comparable states are losing money on this function, and asked why Washington is losing a lot of money. Ms. Byers commented that she would not frame Washington's experience as losing a lot of money. Senator Benson asked whether JLARC was recommending that the state should put more money into the management account or take less out. Ms. Byers responded that the report does not make a specific recommendation regarding the management account and reiterated that Washington's fees are the highest among the states in the comparison, while the fees charged on private lands in Washington are actually the lowest in comparison to other states. Ms. Byers explained that fees on Washington State trust lands are the closest to those on private lands than any of the other states reviewed. Bruce Mackey from DNR responded to the contention that the grazing lands are losing money, noting that the trust beneficiaries receive over \$400,000 a year, but that DNR cannot manage the lands for the 25 percent that is drawn back for the management account.

Senator Oke commented on his concern about over-grazing and the benefit of proper grazing. He asked whether Washington does a good job managing given the fact we do not have over-grazing. Mr. Mackey explained that historically the lands may have been over-grazed. The Legislature passed ecosystem management standards several years ago. Those standards are now used on the grazing lands through resource management programs and plans so that they do not over-graze.

Senator Benson asked what the total amount of revenue from leases is, and Ms. Byers explained total revenues average about \$590,000 per year. She then confirmed that the management cost is about \$370,000 per year. Senator Benson also asked how DNR determines whether grazing lands are "pristine." Mr. Mackey explained that range managers review whether areas could be returned to pre-European settlement conditions and what it would take to get an area in that condition. Some of the original grasses have been grazed out and will not come back, so it can be difficult to get back to that condition. But this does not mean that DNR cannot get the lands in good condition.

Representative Holmquist asked a question with regard to the physical condition of the lands not being quantified in the model developed by the JLARC consultant. She asked if this type of assessment would confirm where grazing practices have improved habitat and the environment. Ms. Byers responded that yes, it would.

Senator Thibaudeau asked whether Representative Dunshee will be taking a look at whether a physical condition assessment should be considered as part of the Capital Budget. Ms. Byers commented that she understood that Representative Dunshee is interested in getting a better understanding of the physical condition of the grazing lands, and he specified in a letter to the Committee that he is worried that there is damage due to over-grazing.

Representative Wallace asked whether the grazing contracts specify the amount of grazing that is allowed, or whether the land must be in good condition at the end of the contract. Mr. Mackey confirmed this is managed through the contracts. Representative Wallace asked whether there is an existing approach to assess the quality of the lands or how the quality can be improved. Mr. Mackey explained that a lands condition assessment had been

conducted in the past, that DNR has a range manager to review the condition of the lands, and that information is included in contracts, so that at the conclusion of the contract the land must be returned to the established condition.

Representative Alexander asked whether the legislation is specific that the 25 percent that goes to the management account can be pooled with other trust revenue accounts to use more in one area and less in another. Mr. Mackey confirmed the ability to pool management account revenue.

Representative Linville commented on the importance of members to understand the parameters of Representative Dunshee's proposal or the standards for judging the condition of the grazing lands.

Representative Wallace moved to approve for distribution the proposed final report of the DNR Grazing Lands Study. The motion was seconded and carried unanimously.

STATUS REPORT ON SALMON RECOVERY EFFORTS

Linda Byers, JLARC staff, presented the JLARC-sponsored status report on salmon recovery efforts. The status report provides information on recovery planning for salmon and steelhead populations in Washington listed under the federal Endangered Species Act, with detail on six regional recovery planning efforts underway in the state.

Senator Regala asked whether the Lower Columbia area in Oregon has presented their recovery plan to the National Marine Fisheries Service (NMFS), and whether Washington's efforts in the Lower Columbia planning area are a bit ahead so as to maintain primacy in recovery planning. Ms. Byers indicated that Washington is ahead, and NMFS publications indicate treating the Lower Columbia area in Washington as a special "management unit," referring to the plan as an interim recovery plan. Senator Regala remarked that Washington has worked very hard to put together a very good plan, and she does not want the state to be in a position where other entities direct Washington's efforts.

Senator Oke commented on the endangered bull trout in Northeast Washington and the relationship of that species as a predator to salmon. Representative Linville asked whether there is coordination between bull trout and salmon recovery efforts. Ms. Byers indicated that five of the six regional plans include information on bull trout. The U.S. Fish and Wildlife Service is responsible for bull trout recovery planning and is conducting a status review at this time. Coordination of salmon and bull trout recovery plans is an issue that planning efforts need to address.

Representative Linville commented on the efforts underway by the Governor's Monitoring Forum and her disappointment in the lack of monitoring plan guidance from NMFS. Ms. Byers commented that the report from the Governor's Monitoring Forum is expected in January.

Senator Parlette commented on earlier information regarding House staff estimates of the Legislature's appropriation of approximately \$770 million in Capital and Operating Budgets for direct salmon recovery efforts so far between 1997-99, and 2003-05. Senator Parlette asked whether expenditure information is available by region. Ms. Byers indicated that the House staff report provides that information and that she would share it with the Committee.

Representative Alexander asked whether objective salmon recovery goals have been identified. Ms. Byers indicated that numerical recovery targets are now included in the regional recovery plans, and that information is also included in the JLARC status report. Senator Oke asked whether those recovery targets were developed by NMFS. Ms. Byers indicated the targets were identified by each of the recovery planning teams and that they will need to be reviewed by NMFS.

Senator Oke requested 15 copies of the status report to take with him to an inter-state fisheries meeting.

Senator Regala moved to approve for distribution the Status Report on Salmon Recovery Efforts. Motion was seconded and carried unanimously.

AT-RISK YOUTH STUDY — PRELIMINARY REPORT

Chair Hunter asked Representative Ruth Kagi to join the Committee on the dais. Cynthia L. Forland from the JLARC staff presented the preliminary report on the At-Risk Youth study. Dana Phelps, from the Department of Social and Health Services's (DSHS) Children's Administration, was available to respond to questions. Ms. Forland summarized the study's findings.

Representative Kagi concurred with the JLARC report that funding research and evaluation is a critical part of moving to evidence-based practices and programs. She reiterated her interest that funding for research be included when funding programs so that the state can ensure expenditures are working appropriately. Representative Kagi asked whether JLARC plans to study not only locally-funded prevention programs, but state-funded prevention programs. Ms. Forland commented that the current work program does not include such a study.

Senator Regala noted that many programs have not been evaluated. The senator asked if both the JLARC and Washington State Institute for Public Policy (WSIPP) reports include a review of those programs that have been proven to be not cost-effective, and not programs that have not yet been evaluated. Ms. Forland confirmed that is the case. Senator Regala asked that a graph in the report be clarified to note that it represents expenditures of survey respondents only. She expressed her interest in getting more information about programs that have yet to be evaluated. Senator Regala also noted the importance of working with local providers and the state to help develop outcome measures for programs. Senator Thibodeau asked about criteria for determining whether a program is cost-effective and what the period of analysis was for review of the programs. Ms. Forland confirmed that the criteria used by WSIPP were rigorous and did not focus on just a snapshot of time, but over a longer time period of performance.

Senator Benson asked whether the 2001 state cost data could be compared to the data in the 2004 benefits and costs of prevention report. Ms. Forland indicated they are not comparable. Senator Benson then asked about JLARC's review of the methodology used in the WSIPP study. Ms. Forland indicated WSIPP's report was based on national research and that it has been well-received by WSIPP's peers.

Representative Holmquist asked whether JLARC's survey was limited to the ten most populous cities and counties across the state, indicating that there may be more cost-effective programs in smaller communities. Ms. Forland confirmed that JLARC surveyed all cities, counties, and juvenile court administrators, and received responses from areas across the state, including the ten most populous cities.

Representative Wallace suggested that the Committee might want to consider adding an additional recommendation to the report. The suggested recommendation would communicate the outcome of this report to all the cities or communities that are receiving dollars. It would also emphasize the need for continual program evaluation.

Representative Linville asked whether there is a cost difference to the state of a cost reimbursement as opposed to a match program. Ms. Forland indicated the difference is in the upfront cost, but the overall benefit split would be the same. Representative Linville asked if any of the not cost-effective programs were eliminated, would the state lose a federal match or some other kind of match. Ms. Forland noted she does not have this information, but would follow up with the representative.

Senator Kohl-Welles asked for a clarification on the study objectives and commented on emphasizing the importance of investing in proven programs, even with upfront costs, as overall costs may be less than spending in programs whose outcomes are not known.

Representative Holmquist asked for a copy of the list of the cities and counties that responded to the JLARC survey. Ms. Forland indicated she could provide the Committee with the information.

K-12 SCHOOL SPENDING AND PERFORMANCE REVIEW — PRELIMINARY REPORT

Chair Hunter asked Representative Bill Fromhold to join the Committee on the dais. Stephanie Hoffman and Lisa Jeremiah presented the preliminary report on K-12 School Spending and Performance Review. Jennifer Priddy from the Office of the Superintendent of Public Instruction (OSPI) was available to respond to questions. Ms. Hoffman reviewed the statutory policy of K-12 school spending and the scope of the JLARC study. Ms. Jeremiah presented an overview of the study findings and issues for the Legislature to consider regarding K-12 school-level reporting and budgeting requirements.

Representative Anderson commented that the state is spending \$5.5 billion a year and, while there are broad general trends of categorization, the state cannot identify where the \$5.5 billion is going each year in any school building. Representative Anderson asked whether this is an accurate statement. Ms. Hoffman added that there is not comparable spending information at the school-building level from district to district, but that districts do track spending to their school buildings according to district-defined activities and programs.

Representative Fromhold remarked that an accountability system is in place, as the state personnel reporting system has the capability to track the majority of K-12 costs, and about 80 percent of those costs are attributable to staff salaries. He noted that the system has the capability to report building locations so costs could be attributed to specific schools. Ms. Hoffman noted that if a standardized definition of building was developed and used by the districts, then comparable information could be tracked.

Representative Alexander asked whether it is possible to develop criteria that would provide a means to obtain consistent data from individual schools. Ms. Hoffman noted that other states do this, but at a considerable cost. Representative Alexander asked whether it would be possible to identify or estimate the costs to collect the information. Ms. Hoffman indicated that the audit team would contact other states to see whether cost estimate information is available.

Senator Kohl-Welles asked whether factors such as class size, student-teacher ratios, and school size and their impact on performance were being reviewed. Ms. Jeremiah responded that this was not reviewed as part of this study and noted that JLARC's 1999 study did review the impact of class size on performance. Senator Kohl-Welles reiterated her interest in understanding the impact of school size on performance.

Representative Linville asked if it is possible to change, eliminate, or streamline data that are required by the federal government, noting the large amount of data that are collected for audit purposes. Representative Linville noted that because of the interest in collecting performance information, there might be opportunities to update reporting requirements. Ms. Hoffman responded that OSPI is reviewing whether it is possible to streamline reporting requirements.

Senator Regala noted that each district has its own levy and that the Legislature does not influence or control that funding, and there is likely a relationship of that funding to performance. Senator Regala also questioned whether

the cost of collecting and maintaining school level of data would be cost-effective and answer the Legislature's questions.

Representative Hunter asked whether schools in Washington State are able to make staffing decisions at the school level. Ms. Jeremiah explained that one of the districts reviewed in the JLARC case study allocates to schools based on average cost data, and the schools in the district make the hiring decisions. Representative Hunter commented that the actual cost information versus the average cost information by school would likely reveal vast differences in spending among schools within a particular district. Ms. Hoffman noted that most school districts report averages and that real salaries reveal differences in spending. Representative Hunter asked whether performance and program data by student are available statewide. Ms. Hoffman noted that the data collected on a per-student basis vary from district to district. Representative Hunter noted that Bellevue School District collects per-student data.

ALTERNATIVE LEARNING EXPERIENCE PROGRAMS STUDY — PRELIMINARY REPORT

Robert Krell from the JLARC staff presented the preliminary report of this mandated study. Lou Adams, Audit Manager for School Programs for the State Auditor's Office (SAO) provided an overview of the SAO's work related to Alternative Learning Experience (ALE) programs, and Martin Mueller from the Office of the Superintendent of Public Instruction (OSPI) was available to respond to questions.

Senator Thibodeau asked whether students in ALE programs are tested. Mr. Krell indicated that students in ALE programs are tested using the Washington Assessment of Student Learning (WASL), however parents may opt out of their child participating in the state assessment. Martin Mueller from OSPI explained that a large number of ALE students opt out of the statewide assessment; however, the new rules require that part- or full-time ALE students will have to participate in some type of annual assessment whether it is the WASL or other assessment tool used by the school district.

Senator Oke expressed concern over the requirements of the new rules and his impression of a restriction on religious instruction in the home, and he asked whether it is the school districts that receive the funding for the ALE students. Mr. Krell explained that the funding per student goes to the district. Mr. Krell also explained that religious materials cannot be used to support activities that are part of the learning plan developed by the public school. If the parents choose to supplement learning materials outside of the learning plan with religious materials in the home, that is acceptable.

Senator Parlette asked whether the JLARC recommendation regarding reporting ALE spending for a two-year period is retroactive. Mr. Krell explained that collection of cost data would be prospective and coordination would be needed so that cost information is collected consistently.

Representative Alexander commented on Recommendation 1 of the report and the impact of establishing ALE programs in statute, and the relationship to the state's basic education responsibilities. Representative Hunter commented that the legal and constitutional impact of a statutory change would require legal analysis.

Representative Hunter asked Mr. Krell to clarify the findings regarding the expenditure of state funds for religious instruction and material. Mr. Krell explained that while there were a very few instances where state funds were used for religious materials, the primary issue is that religious-based instructional materials cannot be used to support activities in the learning plan which are supervised by public school employees.

PROPOSED SCOPE AND OBJECTIVES

- a. Basic Health Plan Study – Part 1
- b. Analysis of Establishing a Regional Jail Facility for Offenders with Mental/Chemical Dependency Disorders
- c. Special Education Excess Cost Accounting Methodology & Expenditure Reporting Review
- d. Evaluation of Budget Process for IT Projects

Chair Hunter briefly reviewed the study scope topics included in the Committee's packets and asked that members contact JLARC staff with any additional comments or questions about the proposed study scopes.

ATTENDANCE

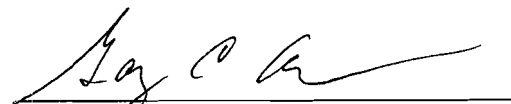
JLARC Members Present: Senators Brad Benson, Jeanne Kohl-Welles, Bob Oke, Linda Evans Parlette, Debbie Regala, and Pat Thibaudeau; Representatives Gary Alexander, Glenn Anderson, Kathy Haigh, Janéa Holmquist, Ross Hunter, Kelli Linville, and Deb Wallace.

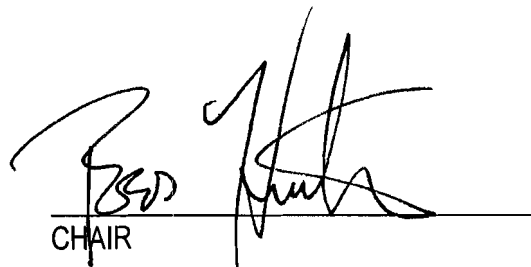
Other Legislators Present: Representatives Ruth Kagi and Bill Fromhold.

JLARC Staff Present: Ruta Fanning, Legislative Auditor; staff members Karen Barrett, John Bowden, Linda Byers, Fara Daun, Melania Elias, Cynthia Forland, Stephanie Hoffman, Lisa Jeremiah, Suzanne Kelly, Keenan Konopaski, Robert Krell, Isabel Muñoz-Colón, Curt Rogers, Valerie Whitener, and John Woolley.

ADJOURNMENT

The meeting was adjourned at 4:40 p.m.


 SECRETARY


 CHAIR